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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,604	11/12/2003	Donavan J. Allen	17613-09000 CIP2	5853
23996	7590	04/04/2007		
RICK MARTIN PATENT LAW OFFICES OF RICK MARTIN, PC 416 COFFMAN STREET LONGMONT, CO 80501			EXAMINER REDDING, DAVID A	
			ART UNIT	PAPER NUMBER
			1744	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/04/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/706,604

Applicant(s)

ALLEN, DONAVAN J.

Examiner

David A. Redding

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-34 is/are allowed.
- 6) ☒ Claim(s) 1-20, 22-25 and 35 is/are rejected.
- 7) ☒ Claim(s) 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 November 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 4/11/06; 4/18/05
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9,12-20,22-25,35 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 5,647,092 (Miwa).

Figures 3a and 4 illustrate the embodiment which is considered to read on the claims. Figure 3a shows a suction port (3) having a leading edge (22) and a rearward end (37) dimensioned to contact the top portion of the carpet pile (figure 4). The cleaner further includes a vacuum blower (6) to draw fluid into the suction port (30 and to recirculate the air back to outlet (21a). Disposed proximate the outlet (21a) is an agitator (51a, 51b) connected to a reciprocating member (51c). When the cleaner moves in a forward direction as indicated by arrow AR4 (Fig. 4) the leading edge (23) moves the carpet pile in a forward direction as shown in figure 4.

Regarding claim 2, in a stationary first position the agitator (51a,51b) rests on the carpet pile in a generally horizontal position. When the cleaner is moved forward (arrow AR4) the agitator pivots to a second position moving some of the carpet pile forward by the leading edge (51a) of the agitator and some of the pile rearwardly by rearward edge (51b).

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Regarding claim 3 when the device moves rearwardly, opposite arrow AR4, the rearward edge (37) positioned below sensor (41) would move some of the pile rearwardly, as claimed.

Regarding claim 4, when the cleaner is moved opposite the direction of arrow AR4, again the agitator (51a,51b) would move the piles in the opposite direction shown in figure 4, but again, both forward and rearward. Figure 4b shows the agitator structure which reads on claims 5-7.

The movement of the agitator (51a, 51b) from a horizontal first position to a pivoted second position is less than 90 degrees as shown in figure 4.

The movement of the reciprocating member (51c) oscillates responsive to cam (51s). Further, reciprocating member (51c) can be controlled per solenoid (41).

Regarding claim 16, all of the elements of Miwa are interpreted the same with the exception of the agitator. For claim 16 the first agitator is element (51a) and second agitator (51b).

Regarding claim 22, figure 4a illustrates those features which read on the claim. First agitator (51a) proximate one wall of flow path (21A) and second agitator (51b) proximate the second wall.

Figure 5 shows an embodiment which reads on claims 23 and 24.

Claims 1-13,15,35 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 5,901,411 (Hato et al.).

Hato et al. discloses a suction tool (101) which is connected to a vacuum cleaner body having a vacuum blower motor operative to draw air into the suction port of the suction tool (101). The suction tool (101) comprises a suction port (102) defined by walls (124a, 124b, 101a) which have a leading edge and rearward edge (not numbered, but illustrated in figure 4) which are constructed such that on some longer pile carpets would contact the pile of the carpet. The tool further comprises an agitator (brush (105), rubber bar (305d)) which is driven by reciprocating member (312) which causes the agitator (305d) to oscillate between the positions shown in figure 4, which is less than 90 degrees. See col. 15, lines 16-67, col. 16, lines 11-36. Since the agitator (105/305d) oscillates forwardly and rearwardly, moving the pile both forward and rearward regardless of direction of suction tool (101), the device is considered to be capable of functioning as claimed. Also, the patent also discloses the reciprocating member being driven by a solenoid (see col. 7, lines 17-23).

***Allowable Subject Matter***

Claim 21 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 26-34 are allowable.


As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Redding whose telephone number is 571-272-1276. The examiner can normally be reached on Mon.-Fri. 6:00 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran-Piazza can be reached on 571-272-1224. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
David A Redding  
Primary Examiner  
Art Unit 1744

DAR